

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

RITA'S WATER ICE FRANCHISE	:	CIVIL ACTION
CORPORATION and RITA'S WATER	:	
ICE, INC.	:	
	:	
v.	:	
	:	
A.J. ICES, L.L.C., MARK SHORR	:	
and LINDA SHORR	:	NO. 02-4849

O R D E R

AND NOW, this day of August, 2002, upon consideration of plaintiffs' Motion for a Temporary Restraining Order (Doc. #2) and after affording an opportunity to all parties to be heard, the court having found from the present record that there is a reasonable likelihood plaintiffs will prevail on the merits of their claims for false designation of origin by reverse passing off and trademark dilution; that in the absence of the requested relief plaintiffs will suffer irreparable harm including loss of goodwill, injury to reputation and diversion of business; that granting the requested relief will not result in greater harm to defendants who will merely be required to conduct themselves in a manner consistent with the provisions of their franchise agreement; and, that the public interest will be served by restraining conduct which would likely create consumer confusion and diminish the capacity of a famous mark to identify and distinguish certain goods, **IT IS HEREBY ORDERED** that said Motion is **GRANTED** in that defendants, their agents, servants, employees, successors, assigns, all persons or entities subject to their control or supervision and all persons or entities acting in concert with them or at their behest, shall not use or

sell Rita's proprietary mix or Rita's proprietary products under names or trademarks other than Rita's, including through non-branded third-party outlets; shall not use Rita's marks and shall not use or sell Rita's proprietary mix or Rita's proprietary products at mobile locations or at any location other than the two Rita's outlets located at 1717 Golden Mile Highway, Monroeville, Pa 15146 and 5880 Forbes Avenue, Pittsburgh, PA 15217; and, shall retain, preserve and protect all financial information, business records, documents and data relating to defendants' operation of any Rita's retail outlets and the sale of any Rita's mix or other proprietary product.

This order shall take effect upon the posting by plaintiffs of a bond with the Clerk of Court in the amount of \$5,000 and shall remain in effect through August 18, 2002.

IT IS FURTHER ORDERED that the corporate defendant promptly appear through counsel as required by law, see Rowland v. California Men's Colony, 506 U.S. 194, 202 (1993); U.S. v. Cocivera, 104 F.3d 566, 572 (3d Cir. 1997); that defendants promptly file a response to plaintiffs' motion for a preliminary injunction; that the parties complete any discovery required for the resolution of such motion on an expedited basis by Saturday, August 17, 2002; and, that a hearing will be held on plaintiffs' motion for preliminary injunction on August 19, 2002 at 2:00 p.m.

BY THE COURT:

JAY C. WALDMAN, J.